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Note verbale dated 9 November 2004 from the Permanent Mission of Armenia to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of the Republic of Armenia to the United Nations presents its compliments to the Chairman of the Committee, and with reference to the latter's note, has the honour to forward the report of the Republic of Armenia pursuant to Security Council resolution 1540 (2004) (see annex).

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Annex to the note verbale dated 9 November 2004 from the Permanent Mission of Armenia to the United Nations addressed to the Chairman of the Committee

The report of the Republic of Armenia on the implementation of Security Council resolution 1540 (2004)

1. The unanimous adoption of Security Council Resolution 1540 (2004) on 28 April 2004 was a landmark event. This was the first Security Council resolution to address the threat that proliferation of weapons of mass destruction and their means of delivery, in particular by non-state actors, poses to international peace and security.

2. The Republic of Armenia, has taken a range of legislative and executive measures that ensure compliance with SCR 1540 and constantly continues to review policies, with a view to establishing what further measures may be necessary.

3. The Republic of Armenia is also fully committed to the work of the 1540 Committee in ensuring global implementation of this resolution.

Legislative action

4. The Republic of Armenia has a wide range of legislative measures in place to prevent the proliferation of WMD including by individuals or entities, which come within the scope of this resolution. According to the Constitution of the Republic of Armenia (adopted on June 5, 1995), more specifically its Article 6, the ratified international treaties form an integral part of Armenian legal system. In case of contradiction with national laws the international treaties prevail over national laws. Correspondingly, the pillars of this legislative framework are the Treaty on the Non-Proliferation of Nuclear Weapons (Armenian Parliament has adopted a resolution on accession to the NPT on September 24, 1991, just three days after adopting a declaration of independence on September 21, 1991 and deposited the necessary instruments of accession with the depositaries of the NPT - the Russian Federation, as the successor state of former USSR, on June 21, 1993 and USA on July 15, 1993), as well as the Chemical Weapons Convention (The Republic of Armenia has signed the CWC on March 19, 1993 and ratified it on January 27, 1995), and the Biological and Toxin Weapons Convention of 1974 (deposited the instruments of accession with the Russian Federation and USA on June 7, 1994).

5. The National Assembly (Parliament) of the Republic of Armenia adopted a new Criminal Code on 18 April 2003 and a law on "Export control of dual-use items and technologies and its transit across the territory of the Republic of Armenia" on September 24, 2003.

6. The draft laws on "Fight against terrorism" and "Fight against money laundering and financing of terrorism" have been developed.

7. Detailed responses as to how Armenia's legislative framework relates to specific issues raised in SCR 1540 are set out below.

Executive action

8. The Ministry of Foreign Affairs of the Republic of Armenia monitors implementation of SCR.540, and has overseen the preparation of Armenia's response to the 1540 Committee.

Enforcement action

9. Action to enforce export controls is coordinated by the cross-departmental "Commission for the export control of dual-use items and technologies, as well as regulating the transit across the territory of the Republic of Armenia" (Export Control Commission), which is established by the special decision of the Government. This Commission is comprised of deputy ministers of all respective ministries, and reviews all applications for export and transit of dual-use items and technologies. The Chief of Staff of the Government of Armenia chairs it. The Commission helps identify and disseminate relevant information, recommends appropriate courses of action and updates a National control list.

10. The Customs Committee and the National Security Service of the Republic of Armenia are the lead agencies bearing the responsibility for preventing the import and export of unlicensed goods, investigating offences, and taking appropriate action. In all cases considered for prosecution, the Customs Committee is bound to act in accordance with the Customs Code of the Republic of Armenia adopted on January 1, 2001 and amended on July 1, 2003.

11. The Export Control Commission provides a methodological support to the companies in establishing the export control internal compliance programme by exporters and shipping companies.

12. Armenia is not a member of international export control regimes: Missile Technology Control Regime (MTCR), Nuclear Suppliers Group (NSG), Zangger Committee, the Australia Group, and the Wassenaar Arrangement and the prime reason is that Armenia is not a major supplier of controlled or military goods, materials and technologies, and the regimes membership may not be relevant to the economic profile of the country. So the fact that Armenia does not participate, should not suggest a disinclination on behalf of the government to comply with international standards, but merely conveys an absence of membership criteria rather than of will. Although Armenia itself is not a member of various multilateral control regimes, it strongly adheres to the goals and principles of these regimes.

13. The Republic of Armenia is a signatory to the Hague Code of Conduct on Ballistic Missiles.

Comments in relation to the specific issues raised posed by UNSCR1540:

Operative Paragraph 1

Decides that all States shall refrain from providing any form of support to non-State actors that attempt to develop, acquire, manufacture, possess, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery

The Republic of Armenia does not provide any form of support to non-State actors that attempt to develop, acquire, manufacture, possess, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery. Any such support is prohibited under Armenian law. Appropriate national legislation is detailed below.

Operative Paragraph 2

Decides also that all States, in accordance with their national procedures, shall adopt and enforce appropriate effective laws which prohibit any non-State actor to manufacture, acquire, possess, develop, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery, in particular for terrorist purposes, as well as attempts to engage in any of the foregoing activities, participate in them as an accomplice, assist or finance them;

Action taken:

Criminal Code of the Republic of Armenia

Criminal legislation of the Republic of Armenia consists of the Criminal Code. New laws, which envisage criminal liability, are incorporated into the Criminal Code. Based on this all types of criminal offences are provided in the Criminal Code.

The Criminal Code of the Republic of Armenia (adopted on 18 April, 2003, entered into force on 2 August 2003) covers all necessary aspects of counter proliferation issues, by criminalizing the actions prohibited by WMD non-proliferation related treaties, establishing, *inter alia*, the extraterritorial jurisdiction for relevant crimes and determining the criminal responsibility also for different forms of complicity.

A. Criminalizing the WMD and dual use goods and technologies control related offences

Article 386 titled «Manufacture or proliferation of mass destruction weapons» of Chapter 33 (Crimes against peace and security) of Section 13 of the Criminal Code of the Republic of Armenia prohibits the development, production, acquiring or selling of WMD.
The Article reads as follows:

> *Development, production, acquisition or selling of chemical, biological or other types of weapons prohibited by international treaties, transfer of raw materials or fissionable materials to a country that does not possess nuclear weapons, providing anyone with mass destruction weapons prohibited in international treaties or components necessary for its production, is punishable with imprisonment for the term from 4 to 8 years.*

Article 215 of the Criminal Code prohibits *inter alia* the smuggling of nuclear, chemical, biological or other mass destruction weapons, or dual-use materials, devices, or technologies which can also be used for the creation or use of mass destruction weapons or missile delivery systems thereof. This article provides, as sanction, the imprisonment from 4 to 8 years with confiscation of property or without it.

The same offences if committed:

- by an official abusing one's official authority;
- by a person exempted from certain types of customs control, or by a person authorized to transport certain goods or means of transportation, exempted from customs control,
- by using violence against a person in charge of customs control, is punishable with imprisonment for the term of 6 to 10 years, with or without property confiscation.

If offence is committed by an organized group, it is subject to punishment with imprisonment for the term of 8 to 12 years with or without property confiscation.

Article 217 of Criminal Code provides that terrorism (i.e. committal of explosion, arson or actions causing significant human losses, or other actions inflicting significant damage to property or actions causing danger to public, or threat of such actions, if these actions were committed with the purpose of violation of public security, intimidation of the population or exerting pressure on decision making by a state body or state official, as well as, for the purpose of fulfilling another unlawful demand of the perpetrator) if accompanied with use of weapon of mass destruction, radioactive materials or with a threat to use other means causing mass losses, is punished with imprisonment for the term of 10 to 15 years.

B. Matters of Jurisdiction

Articles 14 and 15 of the Criminal Code of the Republic of Armenia deal respectively with territorial and extra-territorial jurisdiction.

I. Territorial jurisdiction

> *Article 14. The effect of the criminal law with regard to persons who committed crime in the territory of the Republic of Armenia.*
>
> *1. The person who committed a crime in the territory of the Republic of Armenia is subject to liability under the Criminal Code of the Republic of Armenia.*
>
> *2. The crime is considered committed in the territory of the Republic of Armenia when:*
>
> *1) it started, continued or finished in the territory of the Republic of Armenia;*
> *2) it was committed in complicity with the persons who committed crimes in other countries.*
>
> *3. In case of crimes committed in the territory of the Republic of Armenia and other states, the person's liability arises under the Criminal Code of the Republic of Armenia, if the person was subjected to criminal liability in the territory of the Republic of Armenia and unless an international treaty of the*

Republic of Armenia prescribes otherwise.

4. The person who committed a crime on board of a ship or flying aircraft bearing the flag or the identification of the Republic of Armenia is subject to criminal liability, regardless of their whereabouts, under the Criminal Code of the Republic of Armenia, unless otherwise stipulated in an international treaty of the Republic of Armenia. Also subject to liability under the Criminal Code of the Republic of Armenia, is the person who committed a crime on board of a military ship or aircraft of the Republic of Armenia, regardless of their location

II. Extraterritorial jurisdiction

Article 15. Effect of criminal law with regard to persons who committed crimes outside the territory of the Republic of Armenia.

1. The citizens of the Republic of Armenia, as well as stateless persons permanently residing in the Republic of Armenia, who committed crime outside the territory of the Republic of Armenia, are subject to criminal liability under the Criminal Code of the Republic of Armenia, if the act committed by them is recognized as a crime in the law of the state where the crime was committed, and if they were not convicted in another state. When convicting the above-mentioned persons, the punishment can not exceed the upper limit for punishment in the state where the crime was committed.

2. The citizens of the Republic of Armenia, as well as stateless persons permanently residing in the Republic of Armenia, who committed crime outside the territory of the Republic of Armenia, are subject to criminal liability under Articles 384, 386-391, 393-397 of this Criminal Code, regardless whether the act is considered or not considered a crime in the state where the crime was committed.

3. Foreign citizens and stateless persons not permanently residing in the Republic of Armenia, who committed a crime outside the territory of the Republic of Armenia, are subject to criminal liability under the Criminal Code of the Republic of Armenia, if they committed:
1) such crimes which are provided in an international treaty of the Republic of Armenia;
2) such grave and particularly grave crimes which are directed against the interests of the Republic of Armenia or the rights and freedoms of the citizens of the Republic of Armenia.

4. The rules established in part 3 of this Article are applicable if the foreign citizens and stateless persons not permanently residing in the Republic of Armenia have not been convicted for this crime in another state and are subjected to criminal liability in the territory of the Republic of Armenia.

C. Complicity

Chapter 7 (Complicity) of Section 2 of the Criminal Code of the Republic of Armenia deals with complicity (willful joint participation of two or more persons in a willful crime). The organizing, abetting and aiding are also criminally punishable together with the perpetrator.

According to Article 38 of the Criminal Code of the Republic of Armenia there are the following types of accomplices:

- **The perpetrator is the person who immediately committed the crime or immediately participated in its committal with other persons (accomplices), as well as the one who committed the crime through the use of persons not subject to legal criminal liability or the persons who committed a crime through negligence.**
- **The organizer is the person who arranged or directed the committal of the crime, as well as, the one who created an organized group for committal of crime or criminal association or directed the latter.**
- **The abettor is the person who abetted another person to the committal of crime through persuasion, financial incentive, threat or other means.**
- **The aide is the person who assisted to the crime through pieces of advice, instructions, information or provided means, tools, or eliminated obstacles, as well as, the person who had previously promised to harbor the criminal, to hide the means and tools of crime, the traces of the crime or the items procured through crime, as well as, also, the person who had previously promised to acquire or sell such items.**

Planned action:

The draft laws on "Fight against terrorism" and "Fight against money laundering and financing of terrorism" have been developed. The draft law on "Fight against money laundering and financing of terrorism" has been already included in the agenda of the autumn session of the National Assembly of the Republic of Armenia.

Operative Paragraph 3

Decides also that all States shall take and enforce effective measures to establish domestic controls to prevent the proliferation of nuclear, chemical, or biological weapons and their means of delivery, including by establishing appropriate controls over related materials and to this end shall:

(a)Develop and maintain appropriate effective measures to account for and secure such items in production, use, storage or transport;

Action taken:

- See below under OP3b.

(b)Develop and maintain appropriate effective physical protection measures;

Legislative action

- The Republic of Armenia has ratified the Convention on Physical Protection of Nuclear Materials on June 22, 1993.
- The Agreement between the Republic Armenia and the International Atomic Energy Agency for the Application of Comprehensive Safeguards Agreement in connection with Treaty on the Non-Proliferation of Nuclear Weapon" was signed on September 23, 1993 and entered into force on May 5, 1994 (IAEA INFCIRC. 455)
- Convention on Nuclear Safety entered into force for Armenia on December 20, 1998.
- Protocol Additional to the Agreement between the Republic Armenia and the International Atomic Energy Agency for the Application of Safeguards in connection with Treaty on the Non-Proliferation of Nuclear Weapon" was signed on September 29, 1997 and entered into force from June 28, 2004
- The Law of the Republic of Armenia "On the Safe Utilization of Atomic Energy for Peaceful Purposes" (March 1, 1999 with supplements as of April 18, 2004) is Armenia's primary national nuclear law.

Law "On the Safe Utilization of Atomic Energy for Peaceful Purposes"

Insofar as physical protection is concerned, Article 4 of the Law states that it applies to the physical protection of nuclear facilities, nuclear and radioactive material, and several other related objects and activities.

Article 5 declares that nuclear facilities and nuclear and special materials are owned only by the Republic of Armenia.

Article 7 states that the national Government "organizes the physical protection of atomic energy utilization facilities" and "approves the safety regulations and rules submitted by the regulatory authority."

Article 8 gives State authorities the power to "develop safety rules and regulations in agreement with the regulatory authority" and to "develop and perform measures for the physical protection of atomic energy utilization objects."

Article 11 gives persons duly licensed in the manner prescribed by law the right to conduct activities in the field of atomic energy utilization.

Article 20 stipulates several elements of the operating organization's jurisdiction. In particular, it states that the operating organization is responsible for ensuring the physical protection of the nuclear facility; nuclear, radioactive and special material and special equipment and technologies.

Physical protection objectives and responsibilities are mentioned in Article 25 of the Law. It provides that the State regulation of physical protection of nuclear facilities and material is to be conducted by the State regulatory authority. It also states that entities licensed to operate nuclear facilities and conduct other nuclear activities, are responsible for the physical protection of nuclear facilities and material under their control. This article also sets forth a statement of the aims of physical protection.

Article 26 of the Law establishes additional general directives related to physical protection. This article states that requirements governing physical protection are to be determined by "safety regulations." It also prohibits the operation of nuclear facilities or the use, storage, and transportation of nuclear, radioactive or special material or radioactive waste unless physical protection of these activities is ensured.

Criminal Code of the Republic of Armenia

Article 227 is titled "Breach of safety regulations at nuclear energy facilities".

1. Breach of safety regulations at facilities using nuclear energy for location, design, construction, repair, reconstruction, operation or decommissioning, re-commission, transportation or use of nuclear fuel or radioactive materials, which negligently inflicted grave or medium gravity damage to human health, is punished with a fine in the amount of 200 to 500 minimal salaries, or with correctional labor for the term of up to 2 years, or with imprisonment for the term of 5 years, with or without deprivation of the right to hold certain posts or practice certain activities for the term of up to 3 years.

2. The action envisaged in part 1 of this Article which negligently caused human death, radioactive contamination of the environment, or other grave consequences, is punished with imprisonment for the term of 4 to 10 years, with or without deprivation of the right to hold certain posts or practice certain activities for up to 3 years.

Article 233. "Illegal turnover of radioactive materials".

1. Illegal procurement, keeping, use, transportation, transfer, sale, destruction or damage of radioactive materials, is punished with correctional labor for the term of up to 1 year, or with arrest for the term of up to 2 months, or with imprisonment for the term of up to 2 years.

2. The same action which negligently caused grave or medium-gravity damage to health, is punished with correctional labor for the term of up to 2 years, or with imprisonment for the term of up to 5 years.

3. The action envisaged in part 1 of this Article which negligently caused human death or other grave consequences is punished with imprisonment for 4-10 years.

Article 234. "Theft or extortion of radioactive materials".

1. Theft or extortion of radioactive materials, is punished with imprisonment for 3-5 years.

2. The same act committed by:

1. by several persons with prior agreement;

2. by abuse of official position;

3. with violence not dangerous for life or health, or with threat of such violence, is punished with imprisonment for the term of 4 to 7 years.

3. Actions envisaged in parts 1 or 2 of this Article, committed:

1. by an organized group;

2. with violence dangerous for life or health, or with threat of such violence, is punished with imprisonment for the term of 5 to 12 years, with or without property confiscation.

Decrees of the Government of the Republic of Armenia

- Government decree №573 dated November 16, 1993 on the Armenian Nuclear Regulatory Authority (establishment of the regulatory authority)
- Government decree №389 dated August 22, 1994 on Armenian Nuclear Power Plant safety rules and regulations (application of regulations of Russian Federation in Armenia)
- Government decree №465 dated July 19, 1999 on approval of the list of atomic energy utilization objects important in terms of safety and security.
- Government decree №70 dated February 19, 2000 on the Armenian Nuclear Regulatory Authority (ANRA) (acknowledgment of the ANRA as the regulatory authority pursuant to the Law of the Republic of Armenia "Safe Utilization of Atomic Energy for Peaceful Purposes").
- Decree №385 as of 22 June 2000 issued by Prime Minister of the Republic Armenia on approval of the ANRA Statute.
- Government Decree №452 dated May 24, 2001 on resting the responsibilities for regulation of safety of ionizing radiation sources and protection against ionizing radiation in the Republic of Armenia to the ANRA.
- Government Decree No. 765 dated August 16, 2001 on approval of procedure for registration of ionizing radiation sources.
- Government Decree No. 1263 dated December 24, 2001 on approval of special rules on transport of nuclear and radioactive materials.
- Government Decree № 931-N dated June 27, 2002 establishing procedure for safe transportation of nuclear and radioactive materials
- Government decree No. 1231 dated September 11, 2003 on approval of the "Concept of physical protection and security on Armenian Nuclear Power Plant (ANPP) and nuclear materials" and "Rules on physical protection of nuclear installations and nuclear materials".

Action taken:

IAEA IPPAS mission organized in Armenia from 17-27 November 2003 made recommendations on elimination of deficiencies and on strengthening of the national physical protection system.

The ANPP has developed a project on strengthening of the national physical protection system and the implementation of this project will allow eliminating most of deficiencies detected by the IPPAS mission and significantly increase the ANPP physical protection level.

At present the US DOE renders financial assistance to the ANPP for implementation of the above mentioned project.

Planned action:

Improvement of ANPP and Nuclear Material Physical Protection System.

Project duration: 2 years (for 2005 to 2006)

Specific objective(s) of the project:

Improvement of ANPP and Nuclear Material Physical Protection System. With regard to design basis threat, vulnerability of physical protection analysis and emergency management.

(c)Develop and maintain appropriate effective border controls and law enforcement efforts to detect, deter, prevent and combat, including through international cooperation when necessary, the illicit trafficking and brokering in such items in accordance with their national legal authorities and legislation and consistent with international law;

Action taken:

The Customs Code of the Republic of Armenia (adopted on January 1, 2001 and amended on July 1, 2003).

Article 9. The main objectives of the Customs authorities, *inter alia*, include:

- To prevent smuggling and violation of the RA Customs legislation with respect to transportation of goods across the customs border of the Republic of Armenia, to prevent illicit traffic of drugs, arms /.../, and other goods across the Customs border of the Republic of Armenia, as well as to assist in struggle against international terrorism;
- To meet liabilities and exercise the rights of the Republic of Armenia stipulated by International treaties with respect to customs related issues, promote cooperation with Customs Authorities and other authorized bodies of foreign States, as well as International organizations dealing with customs related issues.

Article 19. Prohibition of Import and Export of Goods and Means of Transportation.

Import of goods and means of transportation into and export thereof out of the customs territory of the Republic of Armenia may be prohibited in cases defined in this Code and other legal acts, when these goods and means of transportation endanger State and national security, public order..."

Article 20. Restrictions on Import and Export of Goods and Means of Transportation

1. *The Government of the Republic of Armenia may define non-tariff means of regulation for import of goods and means of transportation into and export thereof out of the RA territory in compliance with the RA laws and International*

treaties, proceeding from consideration of economic policy of the Republic of Armenia, meeting International liabilities, economic sovereignty and security /.../.

2. *With the aim to ensure implementation of provisions of paragraph 1 of Article 19 and paragraph 1 of Article 20 of the present Code the Government of the Republic of Armenia shall:*

a. Prohibit transportation of certain goods across the RA customs border under customs regimes defined in this Code;
b. Restrict transportation of certain goods across the RA customs border under customs regimes defined in this Code.

Article 122. Sampling of Goods or their Specimen for Customs Formalities

1. *The Customs Authorities have a right to take samples or specimens of goods for customs formalities, as well as to carry out investigations.*

2. *With the permission from the Customs Authorities samples or specimens of goods taken from the goods in Customs safekeeping, can also be taken by persons authorized to deal with goods or other Government Authorities carrying out appropriate control.*

3. *Samples or specimens of goods shall be taken in minimum sufficient quantities for investigation.*

4. *Whenever samples or specimens of goods are taken, a legal statement shall be drawn up.*

5. *Persons or their representatives authorized to deal with goods in accordance with the legislature in force of the Republic of Armenia are allowed to be present during the process of taking samples and specimens. Officials of the Customs Authorities shall be present at the process of taking samples and specimens by other State Authorities or persons authorized to deal with goods.*

6. *The State Authorized Body or a person, entitled to deal with goods, in accordance with legislation in force of the Republic of Armenia, shall cover all expenses arising from taking samples and specimens.*

7. *Whenever the authorized persons dealing with goods in accordance with legislation of the Republic of Armenia do not show up for 10 consecutive days after the goods have been presented, the Customs Authorities may take samples or specimens in the absence of authorized persons. In this case two persons shall be involved in the process of sample/specimen taking.*

8. *Persons or their representatives authorized to deal with goods in accordance with legislation in force of the Republic of Armenia have a right to know the outcome of the investigation. Other State Authorized Bodies of the Republic of Armenia shall inform the Customs Authorities about the results of the investigations they carry out.*

Article 131. Declarant

1. *The declarant may be a person transporting goods and means of transportation or a person authorized by him.*

2. *The declarant shall only be a person of the Republic of Armenia, except for the cases when natural persons transport goods across the customs border of the Republic of Armenia.*

3. *The declarant shall incur liability for authenticity of the information declared.*

4. *In case the person transporting goods across the customs border of the Republic of Armenia is mentally ill or suffers from other serious disease, or if he is under sixteen, the declaration shall be effected by a lawful representative of the latter incurring liability defined by the present Code for the declarant, including liability for authenticity of the information declared.*

Article 132. Rights and Liabilities of Declarant

1. *Before the customs declaration the declarant shall have the right to carry out examination and take measurements of goods and means of transportation under customs control, take samples or specimens of goods by consent of the Customs Authorities, provided that they shall be included in the declaration.*

2. *In case of declaration of goods and means of transportation the declarant shall:*

a. Declare goods and means of transportation in accordance with the procedure established by the present Code;
b. At the request of the Customs Authorities present the goods and means of transportation to be declared;
c. Provide the Customs Authorities with all relevant information and documents required for customs purposes.

Article 133. Documents and Information to be Provided for the Customs Affairs

1. *All documents and information required for the implementation of customs affairs shall be presented to the Customs Authorities at the time of declaration.*

2. *The Customs Authorities shall be entitled to request information only subject to declaration and documents related to the specific case of transportation of goods that allow correction of the information.*

Article 138. Implementation and Types of Customs Control

1. *Persons implement customs control in order to maintain regulations for transportation of goods and transportation means. All goods and transportation means that are transported through the RA Customs border are subject to the Customs control if not otherwise defined by this code.*

2. *Officials of the Customs Authorities shall perform customs control. It implies the following:*

a) Verification of information and documents required for customs affairs;
b) Customs examination (examination of goods and means of transportation; examination of a person as a particular type of customs control);
c) Accounting for goods and means of transportation;
d) Oral questioning of physical persons;
e) Auditing of accounting and reporting systems;
f) Inspection of customs warehouses, free customs warehouses, free trade zones, duty free shops, customs control zones and other construction sites and territories where the goods and means of transportation subject to customs control may be stored, or activities subject to customs control.
g) Application of customs security tools
h) Other types of control stipulated by the RA law and other legal acts of the Republic of Armenia;
i) Post-import audit of goods and means of transportation.

3. *The technical measures that do not endanger the protection of animals and plants, human life and health, or do not cause damage to goods, means of transportation and persons shall be implemented during the performance of customs control.*

4. *The Government of the Republic of Armenia shall establish the procedure for performance of customs control.*

Article 140. Customs Control Zones

1. *In order to perform customs control, customs control zones may upon suggestions of the RA Ministry of State revenues be created by the Government of the Republic of Armenia in territories adjacent to the RA customs border, at the place of fulfillment of the customs formalities, at the location of the Customs Authorities and other places.*

2. *The implementation of any trading activities, shift of goods, means of transportation as well as any activity /entry and exit included/ of persons including officials of other State Bodies within the territory of customs control zone within the limits of their authority shall take place only by permission and under the control of the Customs Authorities, except the cases stipulated by the Legislation in force.*

Article 141. Documents and Information Required for Customs Control.

1. *Any person transporting goods and means of transportation across the customs border of the Republic of Armenia, or implementing such kind of activities that are subject to the control of the Customs Authorities, shall provide the Customs Authorities with documents and information required for the implementation of the customs control, the list and procedure for presentation of documents and information shall be specified by the Government of the Republic of Armenia.*

2. *Law enforcement bodies, persons of the Republic of Armenia shall, on their own initiative or upon application of Customs Authorities, provide information required for the performance of customs control.*

Article 142. Involvement of Specialists and Experts in the Implementation of CustomsControl.

In order to implement customs control the Customs Authorities shall, in accordance with the legislation, be legally entitled to involve specialists and experts from other state law enforcement and supervisory bodies.

Article 143. Access of Officials of the Customs Authorities to Buildings and Territories specified for implementation of Customs Control

1. *In order to perform the customs control, officials of the Customs Authorities shall upon the order of the head of Customs body have the right to enter the buildings and territories belonging to persons:*

   a. Where the goods and means of transportation subject to such control may be located;
   b. Where documents required for the performance of customs control may be available,
   c. Where any activity subject to the control of the Customs Authorities could be performed.

2. *The regulations for officials of Customs Bodies to enter physical person's house shall be defined by law.*

Article 144. Customs security tools and their application.

1. *Customs security tools can be applied by Customs Authorities to the means of transportation, buildings and other places where the goods and means of transportation subject to customs control are /or may be located, the places where activities subject to the control of the Customs Authorities are performed as well as the goods and means of transportation subject to customs control.*

2. *Application of customs security tools shall be carried out through applying stamps, seals, numerical or alphabetical identification marks, or/and other type, through branding, taking test samples and specimens, description of the goods and means of transportation, through using designs, scale images, photos, illustrations, documents accompanying goods as well as any other ways of identification.*

3. *Customs security means may only be removed or modified by the Customs Authorities or upon their authorization, except in the cases of irretrievable loss of goods and means of transportation, real danger of substantial deterioration or destruction of them. The Customs Authorities shall be expeditiously notified of the removal, destruction or modification of identification means and shall be presented with evidences of the aforementioned dangers.*

Article 145. Inspection of goods and means of transportation

1. *The Customs Bodies shall be entitled to perform inspection of goods and means of transportation in order to verify the legality of transportation of goods and means of transportation across the customs border of the Republic of Armenia as well as accounting for collection of customs payments.*

2. *A representative of the person that handles transportation of goods and means of transportation across the customs border of the Republic of Armenia or provides space for their storage shall be present during the inspection.*

3. *The Customs officer shall check the validity of declared information upon the inspection of goods ant transportation means.*

Article 151. Provision of Specimens and Test Samples for Implementation of Customs Control; Cargo and Other Similar Operations Related to Goods and Means of Transportation

1. *By the request of the Customs Authorities carriers of goods shall provide specimens and test samples required for the performance of customs control, and perform cargo or other similar operations related to goods and means of transportation. Carriers shall not impede the performance of these activities.*

2. *The specimens and test samples of goods shall be provided in minimum quantity sufficient for investigation. In case of taking specimens or samples the Customs Authorities shall provide a written note to the importer or his representative.*

Article 183. Smuggling

1. *Illicit transportation of goods in huge quantities, cultural or other valuable goods, as well as arms, weapons, narcotics, virulent, poisonous, radioactive, explosive materials and devices regardless their quantity across the customs border of the Republic of Armenia without customs control or concealing the above mentioned materials, or with the fraudulent use of customs and other documents shall be considered smuggling.*

2. *Smuggling shall be punished in compliance with provisions of the Criminal Code of the Republic of Armenia.*

Chapter 34 of the Customs Code empowers Customs Authorities as investigative bodies

Article 184. Customs Authorities as Investigative Bodies

Customs Authorities shall act as investigative bodies in cases related to smuggling and other crimes specified in the Criminal Procedure Code, on which conducting investigation proceedings is within the scope of Customs Authorities.

Article 185. Conduct of Investigation Proceedings by Customs Bodies

Customs Authorities of the Republic of Armenia shall conduct investigation proceedings in the event of indications of smuggling and other crimes. Customs Authority shall initiate a criminal case in conformity with the provisions of the Criminal Procedure Code of the Republic of Armenia, perform immediate investigative actions with a view to reveal and justify traces of the crime and identify persons that have committed the crime.

Article 211. Administrative Arrest

1. *Administrative arrest of up to 3 hours of person who has infringed customs regulations shall be allowed with the aim to draw up a protocol and make a decision on customs regulations infringement, in case there remains no other way to identify the person who has infringed customs regulations.*

2. *Person who has infringed customs regulations shall be arrested for period of 3 days by notifying the prosecutor in writing within 24 hours from the moment of arrest, in case there are sufficient facts concerning transportation of goods concealed in his body across the customs border, if the person shows resistance to Customs Authorities officials during personal inspection or tries to escape from the place of incident.*

3. *The terms of administrative arrest shall be considered the period from the time of bringing the person infringing customs rules to the building of Customs Body, where it is possible to implement activities stipulated under provisions of paragraph 1 of the present Article, and from the time of sobering for the person infringing customs rules in a state of intoxication.*

4. *Protocol shall be drawn up concerning administrative arrest, where shall be indicated surname and position of the person drawing up the protocol, requisites of the arrested person, grounds for arresting and date of arresting.*

Article 212. Confiscation of Goods, Means of Transportation and Documents

1. *Goods being the direct object of customs regulations infringement, transportation means used for transportation of those goods across the customs border, caches deliberately made for transportation of goods across the customs border of the Republic of Armenia, as well as documents required for proceedings concerning customs regulations infringement shall be subject to confiscation. The confiscation shall be executed with the participation of witnesses, and a translator/interpreter and expert in case of necessity.*

2. *At the time of confiscation officials of Customs Authorities shall be authorized to demand to open locked buildings and warehouses, and to open the locked buildings and warehouses on their own in case of refusal to comply with requirements of officials. All goods, means of transportation and documents confiscated shall be presented to all participants to the action, described in detail in the protocol, and sealed in case of necessity.*

3. *Relevant protocol shall be drawn up after confiscation, where shall be indicated surname and position of the executor of protocol, the place of action, time, circumstances, data certifying identity of participants, quantity, size, weight, personal characteristics of confiscated goods and other peculiarities.*

4. *The official executing protocol shall be obliged to make all participants of the action familiar with the protocol, then the latter shall sign it and shall be authorized to demand their comments to be recorded in the protocol.*

5. *A copy of the signed protocol shall be given to the person from whom have been confiscated goods, transportation means and documents.*

Article 214. Implementation of Customs Inspection

1. *If there are sufficient grounds to suppose that goods and transportation means, being direct object of the infringement of customs regulations, are stored in the territories, buildings and means of transportation, or there are specially designed caches used for illegal transportation of goods across the customs border of the Republic of Armenia, the officials of Customs Authorities shall be authorized to perform customs inspection of the territories, constructions, means of transportation and other objects with compulsory participation of representatives of the given object. Experts shall be involved as well if required.*

2. *Protocol shall be arranged concerning results of customs inspection, where shall be indicated the surname and position of the executor, the place of inspection, date, detailed description of inspection results. All participants of the action shall sign the protocol. In case photo have been taken, recordings made and other evidence gathered at the time of action a relevant record with respect to it shall be made in the protocol.*

Article 215. Taking Samples for Examination

1. In the course of investigation of the cases of customs regulations infringement, the officials of Customs Authorities shall be entitled to take samples of final goods, raw materials, substances, hand writings and samples characterizing goods in case their examination is required for the investigation.

2. A well-grounded decision on sampling shall be made, where shall be indicated the position and surname of decision-maker, as well as the place, quantity and type of samples to be taken, and other circumstances.

3. The official of Customs Body shall implement all required activities and take samples in the presence of participants and witnesses. All the samples taken, except for documents, shall be packed and sealed.

4. In accordance with provisions of Article 122 of the present Code a relevant protocol on sampling shall be made, where shall be indicated all the activities implemented, measures and methods applied, as well as the types of samples taken.

Article 216. Execution of Expertise

1. If special professional knowledge in the field of science, engineering, art, handicraft etc., is required to clarify circumstances of great importance for proceedings on customs regulations infringement, the official conducting the case shall schedule an expertise.

2. A decision on the expertise shall be made, where shall be indicated the reasons for scheduling expertise, material evidence presented for expertise and other objects, by specifying at the same time circumstances in which they have been revealed or obtained, as well as the name of the institution designated to carry out the expertise and questions posed to the expert.

(d)Establish, develop, review and maintain appropriate effective national export and trans-shipment controls over such items, including appropriate laws and regulations to control export, transit, trans-shipment and re-export and controls on providing funds and services related to such export and trans-shipment such as financing, and transporting that would contribute to proliferation, as well as establishing end-user controls; and establishing and enforcing appropriate criminal or civil penalties for violations of such export control laws and regulations

Action taken:

- On September 24, 2003 the National Assembly (Parliament) of the Republic of Armenia adopted the law on "Export control of dual-use items and technologies and its transit across the territory of the Republic of Armenia". It entered into force on November 8, 2003 and replaced existing export control powers and extended them. The law also replaced all former Governmental decrees that were regulating the export control related issues.

- At the core of Armenia's export control concept lay a number of fundamental national security interests, namely control of the national borders; curbing the spread of WMD; prevention of illicit trafficking. The Republic of Armenia believes that an effective and efficient export control system, compatible with international standards, will help us to reduce or eliminate threats to our national security and to international community.

- The Law on export control supports and supplements the implementation of international obligations and commonly agreed measures in order to fight the proliferation of weapons of mass destruction and their delivery systems, guarantees the implementation of international agreements and establishes an effective export control mechanism, creates favorable conditions for integrating into world trade system and acquisition of modern technologies by promoting foreign trade and foreign investments.

- The law envisages the establishment of the Export Control Commission, which is comprised of the representatives of all concerned Ministries and agencies involved in export control regulation. Primarily, the Commission is responsible for issuing the permission or denial for exporting the dual use items and technologies; developing of the export control mechanisms and its improvement; coordinating the works for the creation of new control list; discussing the issues of international cooperation with regard to export control, organizing the deliberations with the participation of concerned ministries and agencies on each request, connected with dual-use item and technology; registering the exporters; providing the information to the exporters and industry on recent developments with regard to export control legislation and international non-

proliferation regimes as well as for the receiving of notifications about the transit of dual use items and technologies across the territory of the country.

- The Law requires the establishment of internal compliance programme for the companies that produce or constantly trade in dual-use items and technologies.

- Under the Law, the Export Control Commission acquired more powers in obtaining the information about the end-use or end-user. The permission for export of controlled items and technologies shall be allowed only when the end-user provides written documentation (end-user certificate) that they shall not be used to create weapons of mass destruction or the means of their delivery. It is also specified that the permission is granted on the condition that end user should not transfer (re-export) the controlled items and technologies to third parties without permission of Export Control Commission. Moreover, the Export Control Commission is authorized to request an additional information or documentation from the competent authority of a foreign government, which must guarantee in writing that the controlled items and technologies shall not be used for the creation of weapons of mass destruction and means of their delivery. The Export Control commission is also authorized by Law to make necessary actions for post-shipment verification of supplied items and technologies.

- It is forbidden by the Law to export and the transit permission shall not be granted if controlled items and technologies are destined to countries where export of such items and technologies is prohibited or restricted in accordance with the international obligations of the Republic of Armenia.

- Paragraph 1 of the Article 12 specifically stipulates that the controlled items and technologies may be exported out of the country only when the permission is granted by the Export Control Commission.

- The Law defines the conditions under which the permission for export may not be granted. An important addition to the previous legislation is foreseen in paragraph 1 (3), Article 14: "The permission for export may not be granted if as a result of such export the national security of the Republic of Armenia may be endangered or if such a risk exists" and paragraph 2 of the same Article, which sets conditions for revoking of previously issued permissions.

- Article 16 of the Law deals with transit issues. The natural or legal persons which intend to deliver dual use items or technologies through the territory of the Republic of Armenia would be requested to send special notification to the Export Control Commission five days in advance of entering Armenia's customs territory and submit along with notification the following information: list, amount, and packaging of goods being shipped; means of transport; name of manufacturer, exporter, shipper and importer; transportation route and date of transit. All this information must be accompanied with the copy of license (or permission) issued by the authorized agency from the Exporting Country. The Commission will keep the records of each transit in a special register. This particular provision shall apply only when the territory of Armenia is being used for transit and not in any other case such as temporary import, re-export or other customs regime.

- The export control system was further strengthened by criminalization of unauthorized trade in controlled items and technologies (see OP2, Art. 215 of the Criminal Code).

- After the adoption of the Law, the Government has adopted two related by-laws. The Government Decree No. 212-N dated February 19, 2004 "On establishing of the rules and composition of the Export Control Commission" and Governmental Decree No. 765-N dated May 20, 2004 "On rules and procedures for inspection of controlled items and technologies by experts".

Planned action

- The development and adoption of the new National control List, which will correspond to the EU-based Control List.

Operative Paragraph 5

Decides that none of the obligations set forth in this resolution shall be interpreted so as to conflict with or alter the rights and obligations of State Parties to the Nuclear Non-Proliferation Treaty, the Chemical Weapons Convention and the Biological and Toxin Weapons Convention or alter the responsibilities of the International Atomic Energy Agency or the Organization for the Prohibition of Chemical Weapons.

The Republic of Armenia is a state party to the Nuclear Non-Proliferation Treaty (NPT); the Chemical Weapons Convention (CWC); and the Biological and Toxin Weapons Convention (BTWC). The Republic of Armenia is also a member of the IAEA (1993) and OPCW (founding member state) and supports the work by States Parties to strengthen implementation of the BTWC.

Operative Paragraph 6

Recognizes the utility in implementing this resolution of effective national control lists and calls upon all Member States, when necessary, to pursue at the earliest opportunity the development of such lists.

Action taken:

- The Republic of Armenia has declared the adherence to the principles and goals of multilateral export control regimes, and is working towards meeting international standards. After the adoption of the Law on "Export control of dual-use items and technologies and its transit across the territory of the Republic of Armenia", the Government has taken a decision to adapt its national export control list with the EU Control list.

Planned action:

- The Republic of Armenia has designed a biannual project plan with the U.S. Department of Commerce Bureau of Industry and Security Office of International Programs with the aim of adopting of the EU model control list by Armenia, which will provide significant benefits to government licensing officers as well as exporters. An initial National control List training has been already conducted in Yerevan, September 13-15, 2004.

- The Republic of Armenia will be closely monitoring the plenary meetings of the relevant multilateral export control regimes in order to constantly update its national control list.

Operative Paragraph 7

Recognizes that some States may require assistance in implementing the provisions of this resolution within their territories and invites States in a position to do so to offer assistance as appropriate in response to specific requests to the States lacking the legal and regulatory infrastructure, implementation experience and/or resources for fulfilling the above provisions

The Republic of Armenia appreciates the fact that some states are ready to provide assistance in implementing the provisions of this resolution and is planning to take full use of it. Armenia also acknowledges the valuable assistance provided by IAEA, OPCW and other international organizations in this regard that is supplementing our national efforts in this regard.

The Republic of Armenia has greatly benefited from the cooperation with the United States, Russia, France, UK and other EU countries, which boldly enhanced our national capabilities in the fight against the proliferation of weapons of mass destruction since gaining independence.

Operative Paragraph 8

Calls upon all States:

(a)To promote the universal adoption and full implementation, and, where necessary, strengthening of multilateral treaties to which they are parties, whose aim is to prevent the proliferation of nuclear, biological or chemical weapons;

Action taken:

- At the First Conference of the State Parties to the CWC in May 1997, Armenia reiterated its commitment to the CWC objectives of nonproliferation and complete elimination of chemical weapons, despite the fact that not all states of our region had ratified the Convention by that time.
- At the Second CWC conference, Armenia cosponsored the draft recommendation proposed by 16 states on ensuring the universality of the Convention.
- At the 1995 NPT Review and Extension Conference, Armenia advocated for indefinite extension of the Treaty and cosponsored the Canadian resolution, which paved the way to the consensus decision of the Conference to that effect.
- The Republic of Armenia fully supports the EU Common Position, November 2003, on the universalization of the main multilateral non-proliferation agreements (CWC, BTWC, NPT)
- Urging non-state parties to adhere to multilateral treaties, in order to achieve their universal application.

Planned action:

- **The Republic of Armenia will continue to promote the universal adoption and full implementation, and, where necessary, strengthening of multilateral treaties whose aim is to prevent the proliferation of nuclear, biological or chemical weapons**

(b)To adopt national rules and regulations, where it has not yet been done, to ensure compliance with their commitments under the key multilateral non-proliferation treaties;

- **The Republic of Armenia plans to proceed by the Plan of Action regarding the implementation of Article VII obligations adopted by the OPCW Conference of State Parties on October 24, 2003 in order to adjust its national legislation with the requirements of the Chemical Weapons Convention by November 2005.**

(c)To renew and fulfill their commitment to multilateral cooperation, in particular within the framework of the International Atomic Energy Agency, the Organization for the Prohibition of Chemical Weapons and the Biological and Toxin Weapons Convention, as important means of pursuing and achieving their common objectives in the area of non-proliferation and of promoting international cooperation for peaceful purposes;

The Republic of Armenia continues to provide full support for the aims and activities of the IAEA as a state party.

The Republic of Armenia continues to provide full support for the aims and activities of the OPCW as a state party. Currently an "Agreement between OPCW and the Government of the Republic of Armenia concerning the provision of assistance" is in the process of negotiation, which will enable Armenia to provide assistance to the Organization upon request.

As a state party to the BTWC, the Republic of Armenia remains fully committed to strengthening the Convention.

(d)To develop appropriate ways to work with and inform industry and the public regarding their obligations under such laws;

- **Organization of seminars and workshops with the assistance provided by the US Government**

- **The Export Control Commission provides a methodological and information support to the exporting and freight forwarding companies in establishing the export control internal compliance program.**

Operative Paragraph 9

Calls upon all States to promote dialogue and cooperation on non-proliferation so as to address the threat posed by proliferation of nuclear, chemical, or biological weapons, and their means of delivery

The Republic of Armenia continues to promote dialogue and co-operation on non-proliferation in a range of fora so as to address the threat posed by proliferation of nuclear, chemical, or biological weapons, and their means of delivery.

The Republic of Armenia has signed an Agreement with the Government of the Republic of Argentine on "Cooperation in the field of peaceful use of nuclear energy" (entered into force on April 22, 1999).

The Republic of Armenia has signed an Agreement with the Government of the Russian Federation on "Cooperation in the field of peaceful use of nuclear energy" (entered into force on January 10, 2001).

On a bilateral level, the United States of America and the Republic of Armenia have agreed to mutual cooperation and assistance in the worldwide effort to counter the proliferation of weapons of mass destruction. As part of this effort, on July 24, 2000 both countries signed an agreement titled "Agreement between the Government of the United States of America and the Government of the Republic of Armenia concerning cooperation in the area of counter-proliferation of weapons of mass destruction".

The governmental agencies of the Republic of Armenia are actively cooperating with the US Nuclear Security Administration and US Nuclear Regulatory Authority. In Yerevan the US Government organized Nuclear Export Control Enforcement training for Customs and Border Guards and a training course for nuclear end-use and end-user identification related problems.

The Republic of Armenia has actively participated in all projects offered by the U.S. In January 2003, the Bureau of Diplomatic Security, Department of State has formally accepted Armenia into its Anti-Terrorism Assistance (ATA) program. Armenia has already immensely benefited from the assistance programs and following trainings: Vital Installation Security Course (March 18-April 5, 2002 in Albuquerque, New Mexico), Postal Chemical/Biological Incident Management Course (July 8, 2002, Yerevan), Explosive Incident Countermeasures Course (June 24-August 2, 2002, Louisiana). The Bureau of Diplomatic Security has conducted an airport security needs assessment in July 9-13, 2002 in order to find out the requirements for undertaking an appropriate training for airport staff.

One of the recent initiatives is a cooperation with the US Defence Threat Reduction Agency, which organized specific trainings under the US Department of Defence International Counter Proliferation Program: "Counter-proliferation awareness" (April 26-30, 2004),"Pre-training survey assessment on border detection equipment" (May 17-28, 2004), "Dual use and specialized equipment" (June 14-18, 2004), "Radiological detection and Response course" (July 20-21, 2004). As part of this training, the United States Government donated the specialized equipment to the Republic of Armenia to assist in our efforts to counter the proliferation of weapons of mass destruction. The US Government is also assisting the Armenian law enforcement agencies by providing the "WMD related investigation analysys" trainings in Armenia.

Armenia is also engaged in US Export Control and Border Security Program, which is designed to develop the enforcement skills of the Armenian border guards and the Customs Service in their fight against the movement of weapons of mass destruction and products that have dual use. The Republic of Armenia appreciates the fact that the United States remains committed to continuing cooperation with Armenia to enhance Armenian export control and border security capabilities. All projects, which are currently under way, reflect this commitment and the needs and priorities of Armenian Government.

The Republic of Armenia is actively participating in Non-Proliferation and Disarmament Cooperation Initiative (NDCI) proposed by the EU. Armenian representatives participated in two working meetings of NDCI – December, 2002 in Brussels and March, 2004 in London.

The Thessaloniki European Council in June 2003 agreed that preventing the proliferation of WMD should be a priority for the Union, both internally and in its relations with third countries, and agreed on an Action Plan for addressing the issue. The Republic of Armenia, among others, has been identified as a recipient of the EU support through IAEA Nuclear Security Program and is engaged in three areas of cooperation – the physical protection of nuclear materials and other radioactive materials in use, storage and transport, and of nuclear facilities; security of radioactive sources as well as state's capabilities for detection and response to illicit trafficking.

On September 1, 2004 the Republic of Armenia has officially affirmed the Government's commitment to the principles and guidelines of the 2002 G8 Kananaskis declaration on Global Partnership against the spread of weapons and materials of mass destruction and on September 10, 2004 has been formally recognized as a G8 Global Partnership participant at G8 Senior level meeting in Geneva.

The Republic of Armenia has participated at the GTRI – Global Threat Reduction Initiative meeting in Vienna on September 18-19, 2004 and supported the final document of that meeting.

On August 25, 2004, the Republic of Armenia, pursuant to the provisions of the Article 4, Section B of Resolution No. GC (47)/Res/7 regarding the Code of Conduct on the Safety and Security of Radioactive Sources, has officially supported and endorsed the IAEA efforts to enhance the safety and security of radioactive sources and pledged to work toward the guidance contained therein as well as encouraged other countries to do the same.

Operative Paragraph 10

Further to counter that threat, calls upon all States, in accordance with their national legal authorities and legislation and consistent with international law, to take cooperative action to prevent illicit trafficking in nuclear, chemical or biological weapons, their means of delivery, and related materials;

Action taken:

- The Customs State Committee of the Republic of Armenia seeks to develop contact and assist other states through mutual administrative and mutual legal assistance.

- The IAEA's International Nuclear Security Advisory Mission is invited to visit Armenia later this year to identify the priorities of cooperation in order to further enhance Armenia's capabilities for detection and response to illicit trafficking.

- The Republic of Armenia is currently considering the possibility for joining the Proliferation Security Initiative (PSI), which aims to help prevent trafficking in WMD and related material.

Planned action:

- The Republic of Armenia is still considering what further action may be necessary.